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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/615,026	07/13/2000	G. Michael Phillips	35512-00035	3955

7590 01/28/2004  
Steven E Shapiro Esq  
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11377 West Olympic Boulevard  
Los Angeles, CA 90064

EXAMINER

RAHMJOO, MANUCHER

ART UNIT	PAPER NUMBER
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2676

DATE MAILED: 01/28/2004

*[Handwritten signature]*  
*10*

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/615,026

Applicant(s)

PHILLIPS ET AL.

Examiner

Mike Rahmjoo

Art Unit

2676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, and 3- 22 are rejected under 35 U.S.C. 103(b) as being unpatentable over Harvard Graphics in view of Thomas et al (US Patent 5,875,462), hereinafter, Thomas.

As per claim 1, 12, and 19- 22 Harvard Graphics teaches plurality of data points on page 11-33, wherein each of the data points include projections in the bar chart and the chart represents measurements of x vs. y which show actual and projected values in different intensities (also discussed on 11- 42, 43 where the series are in color or grayscale); and the display characteristic of each data value is a function of the measure of the statistical significance of the estimated statistic included in said data values wherein height is one of the display characteristics which is a function of the measure of the statistical significance in the actual or the projected sales on page 11-

33; and a computer readable medium storing a computer executable process on page 2- 2.

However, Harvard Graphics does not teach obtaining a calculated measure of statistical significance for each of said data values.

Thomas teaches obtaining a calculated measure of statistical significance for each of said data values (one or more unknown values of at least one known characteristics and a set of samples with known values of the characteristics) see for example column 15 lines 25- 61.

It would have been obvious to one of ordinary in the art at the time the invention was made to incorporate the teachings of Thomas into Harvard Graphics to determine the known characteristics, for use by an algorithm wherein the selection of wavelength subsets improves the model's fitness of the determination for the unknown values of the known characteristics see for example the abstract.

As per claim 3, Harvard Graphics teaches data points are displayed in a bar graph that includes a separate bar for each asset shown one per actual bar of the year on the chart of page 11- 33.

As per claim 4, Harvard Graphics teaches each said bar is displayed at an intensity level that is a function of the measure of statistical significance of the measure of the tendency of the value of the asset corresponding to said bar to change on the chart of page 11- 33 wherein each bar of the actual and projected sales have different intensities (also discussed on 11- 42, 43 where the series are in color or grayscale).

As per claim 5, Harvard Graphics teaches a height of each said bar is a second function of the measure of the tendency of the value of the asset to change as a result of a change in the data value for the exogenous variable as per discussion of claim 1 and on the chart of page 11- 33 wherein the heights change.

As per claim 6, Harvard Graphics teaches the estimated statistic was estimated using a regression equation, and wherein the measure of statistical significance is a p value that was calculated from the regression equation on page 11- 44 wherein four types of regression (linear, exponential, logarithmic, and power curves) are used.

As per claim 7, Harvard Graphics teaches the function is linear on page 11- 36.

As per claim 8, Harvard Graphics teaches the function is non-linear on page 11- 36(log scale).

As per claim 9 and 18, Harvard Graphics teaches each said data point is displayed as a bar in a bar graph on page 11- 33 where each bar represents the sales of one particular year.

As per claim 10, Harvard Graphics teaches statistical significance is an estimate of a probability that an actual value for said estimated statistic is outside of a specified confidence interval around an estimated value for said estimated statistic on page 11- 33 where the projected sales and the actual sales fall outside of each other by some margin which in this case is in units of millions of dollars.

As per claim 11, Harvard Graphics teaches calculation of the intensity for each said data point comprises determining 1 minus said estimate of probability (also discussed on 11- 42, 43 where the series are in color or grayscale).

As per claim 13, Harvard Graphics teaches display characteristic is a size of said each data point where on page 11- 33 each bar has different size as per projected or actual sales values.

As per claim 14- 17, Harvard Graphics teaches hue, saturation, brightness and color characteristics on pages 11- 42, 43 and 7- 17 where the series are in color or grayscale.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harvard Graphics.

As per claim 2, Harvard Graphics teaches the data point changes for different years that includes an identification and a measure of the tendency of an asset on the chart of page 11- 33.

However, it does not explicitly teach a measure of a tendency of a value of the asset to change as a result of a change in a data value for an exogenous variable.

It teaches the actual and projected sales as assets.

It would be obvious to one of ordinary in the art that the projected sales encamps many variables e.g. exogenous that contribute to the projections made.

The examiner would suggest amending the claim language of claim 6 to further clarify and make distinct the well-known aspect of "p value".

***Response to Arguments***

Applicant's arguments filed 12/16/2003 have been fully considered but they are not persuasive.

As per applicant's remarks, applicant argues on page 3 that obtaining and displaying a plurality of estimated data values and a calculated measure of statistical significance for each of said estimated data value is not disclosed or suggested by the applied art.

The examiner respectfully disagrees.

The calculated measure of statistical significance for each said estimated data value is disclosed through Thomas et al in column 15 lines 32- 34 wherein a set of samples with known values of the characteristics is an actual data.

According to Merriam Webster's Collegiate Dictionary, 10<sup>th</sup> edition known is defined as "to be aware of the truth or factuality of " and "to have knowledge", and estimated is defined as "implies a judgment, considered or casual, that precedes or takes place of actual measuring or counting or testing out".

Column 15 lines 26- 28 of Thomas et al recites "determining one or more unknown values of at least one known characteristic". It is clearly stated that when the basis of any calculation or scientific determination is made on known vs. unknown values, therefore, one can firmly establish a calculated measure of statistical significance (known value) from an estimated data value (unknown value).

As such stated above, it is clear that the connection between actual (known) and projected (unknown) data values can firmly be established, and it would further motivate one of ordinary skilled in the art at the time the invention was made to establish calculated measure of statistical significance from an estimated data value or vise versa for improvement purposes as per abstract in Thomas et al.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



### **Inquiry**

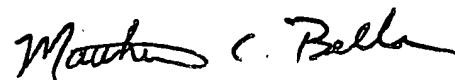
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Rahmjoo whose telephone number is (703) 305-5658. The examiner can normally be reached on 6:30- 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on (703) 308- 6829. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872- 9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4750.

Mike Rahmjoo

January 15, 2004



**MATTHEW C. BELLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600**